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DE RUEHLP #2243/01 2271929  
ZNY CCCCC ZZH  
P 151929Z AUG 07  
FM AMEMBASSY LA PAZ  
TO RUEHC/SECSTATE WASHDC PRIORITY 4665  
INFO RUEHAC/AMEMBASSY ASUNCION 7002  
RUEHBO/AMEMBASSY BOGOTA 4366  
RUEHBR/AMEMBASSY BRASILIA 8251  
RUEHB/AMEMBASSY BUENOS AIRES 5490  
RUEHCV/AMEMBASSY CARACAS 2714  
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C O N F I D E N T I A L LA PAZ 002243

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E.O. 12958: DECL: 08/15/2017  
TAGS: ECON PGOV PREL BL  
SUBJECT: EVO'S DRAFT CONSTITUTION

Classified By: EcoPol chief Mike Hammer for reasons 1.4 (b) and (d).

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Summary  
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¶1. (C) Government party Movement Toward Socialism (MAS) advisors and consultants, including Spanish and Venezuelan advisors, submitted a draft constitution to the Constituent Assembly on August 14. This draft represents only the MAS government's wish-list, including unlimited reelection of the President. The draft constitution would also require that the President speak at least one indigenous language, provide for the potential revocation of presidential mandate by referendum, give autonomy to departments and indigenous groups, and incorporate indigenous electoral and judicial practices. The involvement of the executive branch in what is supposed to be the separate and independent Constituent Assembly has drawn complaints from the opposition and observers: the Constituent Assembly, which was created to write the constitution, has had no input in this draft. However, with the Constituent Assembly deadlocked over the question of the capital's location, some constituent members from both the MAS and opposition parties are suggesting that the Constituent Assembly be shut down. Comment: The draft constitution likely foreshadows the final version to be produced by the Constituent Assembly. End comment.

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Evo Forever?  
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¶2. (SBU) On August 15, local newspapers published the MAS draft constitution which would allow for unlimited reelection of the president after the first five year term. If a presidential candidate did not receive at least fifty-one percent in the first vote, within 60 days a second election would be held between the two candidates with the most votes.

The presidential mandate could be revoked in a national referendum triggered by a petition signed by twenty-five percent of the voting public. This revoking referendum could not be called in the first two years or last year of the president's five-year term, and only one referendum could be called per term. If a president lost the referendum, the

vice president would assume command and would be required to call a general election within ninety days.

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Proposed Requirements to be President  
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13. (C) According to the draft constitution, candidates would not be allowed to have dual nationality and would be required to be Bolivian by birth. Candidates would have to be more than thirty years old and not charged with or have been convicted of a crime. Candidates would be required to have fulfilled their mandatory military service (there is no clear exception for a female candidate, although women in Bolivia do not have mandatory military service.) Candidates would also be required to speak at least one indigenous language. (Comment: Evo is not fluent in any indigenous language. End comment.)

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No Protection for Investors  
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14. (SBU) Article 242 of the "International Relations" title specifies that international investors would only enjoy the benefits of Bolivian law and could not invoke external agreements or, by implication, international arbitration.

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Autonomy: Divide and Conquer  
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15. (C) The draft constitution would provide for many different levels of autonomy, including departmental, regional, municipal, and indigenous/originario/campesino.

This extreme decentralization would in effect weaken the departments, since a department such as Santa Cruz would receive departmental autonomy but would also have other autonomous units within its borders. In addition, the draft constitution introduces the idea of a departmental council, which would be elected from within the department and would have a (currently-unspecified) quota of indigenous council-members. The council would control the budget and human resources of the department, yet another diminution of the power of the prefect.

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Separate but Unequal  
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16. (C) Sections of the draft constitution would provide for "more equal" or privileged status for indigenous citizens: for example, a presidential candidate would be required to be member of a political party (an expensive requirement,) unless he or she were indigenous, originario, or campesino. Community or traditional indigenous justice would apply in indigenous territories (to indigenous or non-indigenous citizens,) with no right to appeal to the formal justice system. However, the draft constitution does not include the concept of the "fourth power" often cited by Evo: a fourth branch of government made up of civic and indigenous groups that would act as a check to the other three branches of government.

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Free Speech, Controlled Media  
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17. (C) While guaranteeing the right to free speech, the draft constitution states that the national government will be in charge of regulating and approving electromagnetic frequencies: that is, the State will decide if a radio station or TV channel can exist. (Comment: The inclusion of this article in the constitution suggests the influence of Venezuelan advisors. End comment.)

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Comment

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¶8. (C) The constitution drafted by Evo's advisors (with no input from the Constituent Assembly charged with the task) may be changed either within the Constituent Assembly or behind the scenes in bargaining with opposition parties. The current draft, however, likely provides a foreshadowing of the final version. Notable among its provisions would be unlimited reelection of the president and preferential treatment for the majority indigenous population. If enacted, the new constitution would further divide Bolivia, pitting indigenous groups against departments and leaving room for a dictator-like power at the top. End comment.

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